

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

NUCLEAR DEVELOPMENT LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 5:18-CV-01983-LCB
	)	
TENNESSEE VALLEY	)	<b>OPPOSED</b>
AUTHORITY,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION TO VACATE ORDER REQUIRING  
COMPLIANCE WITH STIPULATION**

Defendant Tennessee Valley Authority (“TVA”) moves this Court (a) to vacate its order dated December 27, 2018, (Doc. 18) directing the parties to abide by the terms of a stipulation (Doc. 17) entered into between the parties pertaining to Plaintiff’s motion for preliminary injunction, and (b) to order that the parties no longer have any obligation under the stipulation. In support of this motion, TVA offers the following grounds:

1. On December 26, 2018, the parties entered into the Stipulation of the Parties Regarding Plaintiff’s Motion for Preliminary Injunction (Doc. 17).
2. On December 27, 2018, this Court entered an order “that the terms of the stipulation (Doc. 17) are ADOPTED by the Court and the Court ORDERS the

parties to abide by same.” Doc. 18. The Court further stated, “The terms of the stipulation shall remain in place until further notice by the Court.”

3. On August 26, 2021, the Court entered its Final Judgment (Doc. 247). The Court entered judgment in TVA’s favor on all counts in Plaintiff’s Amended Complaint. That included Plaintiff’s Count Two, which sought a preliminary injunction.

4. This Court should vacate its order directing the parties to abide by the stipulation and should order that the parties no longer have any obligation under that stipulation. The parties entered into the stipulation in connection with Plaintiff’s request for a preliminary injunction, which has now been denied. Doc. 246 at 35.

5. The burdens and limitations imposed on TVA under the stipulation are no longer appropriate in light of the Court’s Final Judgment. Indeed, trial testimony from Bellefonte site manager James Chardos established that TVA’s six-month cost to maintain the Bellefonte site in accordance with the construction permits is \$2.9 million (Tr. 326:3-6), which equates to \$5.8 million per year. TVA should no longer be restricted in its handling of the construction permits issued by the Nuclear Regulatory Commission applicable to the Bellefonte site.

6. Counsel for Plaintiff advised that the motion should be marked as opposed.

WHEREFORE, PREMISES CONSIDERED, TVA prays that this Court will

(a) vacate its order dated December 27, 2018, (Doc. 18) directing the parties to abide by the terms of a stipulation (Doc. 17) entered into between the parties pertaining to Plaintiff's motion for preliminary injunction, and (b) order that the parties no longer have any obligation under the stipulation.

Respectfully submitted this 2nd day of September, 2021.

s/ Matthew H. Lembke  
Attorney for Defendant

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2021, a true and correct copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record:

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*s/ Matthew H. Lembke*

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